



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

AMERICAN FEDERATION OF STATE, COUNTY
AND MUNICIPAL EMPLOYEES, AFL-CIO,
COUNCIL NO. 68 (Police & Fire Depart-
ment Employees)

Petitioner:

CASE NO. A-0477.

v.

DECISION NO. 82-54

TOWN OF PLYMOUTH, NEW HAMPSHIRE
BOARD OF SELECTMENT

Respondent:

APPEARANCES

Representing the Petitioner, AFSCME:

James J. Barry, Esq., Counsel
James C. Anderson, Executive Director, Council #68

Representing the town of Plymouth:

Daniel D. Crean, Esq., Counsel
Thomas F. Rankin, Administrative Assistant
Niels Nielsen, Selectman

BACKGROUND

On January 20, 1982, Hearing Officer, Russell F. Hilliard, Esq., pursuant to a petition for certification filed by the American Federation of State, County and Municipal Employees, AFL-CIO (AFSCME) conducted a hearing to determine if the proposed unit was a proper unit within the definition of RSA 273-A:8.

Upon hearing all the evidence, the Hearing Officer issued the following opinion:

"...petition is hereby granted and a bargaining unit composed consisting of the employees of the police department and fire department, as follows:

Secretary, patrolmen, investigative officer, sergeants, firefighters and deputy fire chief.

Excluded from the unit: chief of police, chief of the fire department and the director of ambulance service."...

On March 12, 1982, Counsel for the town of Plymouth filed an appeal of the opinion and a request for a hearing before the Public Employee Labor Relations Board (Board). Hearing was granted by the Board and held on June 17, 1982.

FINDINGS OF FACT

-- The Order of Election issued March 4, 1982 was issued in error inconsistent with the Board's Rules and Regulations, Rule 5.9, and prior to the time of appeal and is hereby declared null and void.

-- In accordance with the Board's Rules, Section 2.1, reasonable efforts to reach agreement should have been made by AFSCME and the Town prior to petitioning.

-- AFSCME was not repeting for all employees of the Town, they were petitioning for a new unit; the original petition, which was denied by the Board, proposed to include all municipal town employees; namely, police, fire, highway and incinerator department personnel.

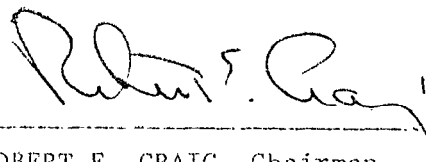
-- Counsel for the Town offered no new evidence at the hearing and felt that there were but two basic problems; i.e., the failure of AFSCME to participate in pre-hearing with the Town and the fact that the Board denied the first petition which included all employees, therefore, the Board should not go forward because AFSCME did not appeal the first decision.

BOARD DECISION

After reviewing the evidence presented before the Hearing Officer, testimony at the June 17th hearing, memorandum of respondent town of Plymouth filed at the hearing and subsequent memorandum filed in support of AFSCME, the Board finds, as follows:

Decision of the Hearing Officer issued under No. 82-13, dated March 4, 1982 is hereby reaffirmed.

Election in accordance with 273-A and the Board's Rules to be held as expeditiously as possible.



ROBERT E. CRAIG, Chairman
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Signed this 5th of August, 1982.

By unanimous vote.

Chairman Robert E. Craig presiding. Members Osman and Hilliard present and voting. Also present, Executive Director LeBrun and Alternate Labor Representative Russell Verney.